IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 25.08.2005
CORAM:
THE HONOURABLE MR.JUSTICE P.SATHASIVAM
and
THE HONOURABLE MR.JUSTICE AR.RAMALINGAM

Writ Petition Nos.35545 of 2004, 19025, 19462, 19943, 19967, 20225, 22454, 24258, 24396, 24707, 24959, 25490, 26065, 26727, 27281, 29255, 35602, 35603, 37339, 37540, 37740 of 2003,
3, 11, 12, 37, 40, 41, 551, 947, 2017, 2050, 2540, 2561, 3795, 4115, 4801, 4879, 4880, 5702, 5703, 5711, 6226, 6419, 6420, 6867, 6868, 6949, 7043, 7676, 8956, 9202, 9246, 9910, 9982, 10096, 10098, 10151, 10204, 10315, 10670, 11064, 11929, 11972, 12036, 12361, 12563, 12721, 12817, 12818, 13273, 13311, 13336, 13338, 13460, 13804, 14061 to 14067, 14103, 14457, 14481, 14691, 14701, 14823, 14824, 15174, 15565, 15566, 15567, 15568, 15674, 15869, 15977 to 15979, 16001 to 16003, 16050, 16234, 16409, 16571, 16643, 16715, 16736, 16806, 16807, 16840, 17052, 17111, 17434, 17435, 17501, 17680, 17685, 17734, 18205, 18453, 18546, 18563, 18564, 18605, 18639 to 18643, 18913, 18919, 18939, 18965, 19043, 19099, 19122, 19123, 19200, 19312, 19313, 19330, 19356, 19399, 19504, 19630, 19647, 19648, 19666, 19668, 19708, 19802, 19826, 20065, 20076, 20107, 20182, 20269, 20343, 20463, 20484, 20543, 20638, 20937, 20957, 21006, 21124, 21224, 21300, 21510, 21524, 21525, 21611 to 21614, 21621 to 21623, 21907, 21952, 22001, 22030,

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W.P.M.P.Nos. 23827, 24302, 24935, 24936, 24956, 24957, 25248, 27783, 29873, 30034, 30391, 30685, 31305, 31922 of 2003 etc., batch

W.P.NO. 35545 OF 2004

K.M. Vijayan ..Petitioner.

vs

1. The State of Tamilnadu,
rep.by its Secretary to Government,
Home (Transport) Department,
Secretariate, Chennai-9.

2. The Regional Transport Officer,
The Registerin Authority
Mandavali (Triplicane)
Chennai

.. Respondents

Petitions presented under Article 226 of the constitution of India to issue writs of Declaration as stated in each of the writ Petitions.

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Writ Petition filed under Article 226 of the

Constitution of India, to issue a Writ of Declaration, declaring Section 4 (1-A)(a) of Tamil Nadu Motor Vehicles Taxation Act, 1974 introduced by the Tamil Nadu Amendment Act 27 of 1998 as amended by Tamil Nadu Act 13 of 2003 by substituting Schedule III, Part I and Section 3-A levying Green Tax in respect of Vehicles mentioned under the 4th Schedule of the Tamil Nadu Motor Vehicles Taxation Act, 1974 as ultravires and violative of Article 14 of the Constitution of India in so far as it amounts to levy if life tax for the new registration of vehicle in so far as the petitioner is concerned.

For Petitioners:

Mr.K.M. Vijayan, Senior Counsel for M/s. La Law for Petitioner in W.P.No. 35545/2004.

Mr.R. Natesan:- For Petitioner in W.P.Nos. 30921, 32225/2004 9987/2005 etc.

Mr.M. Krishnappan:- For Petitioner in W.P.Nos. 29540/2004, 67/2005 etc.

Mr. Sureshkumar For Petitioner in W.P.No. 35545/04

For Respondents

Mr.N.R. Chandran, Advocate General, assisted by Mr. P. Chandrasekaran, Addl. Government Pleader.

Mr.A.L. Somayaji, Additional Advocate General , assisted by Mr. S. Venktesh, Special Government Pleader.

MR. Bhader Sayeed, Additional Advocate General, assisted by Mr.P.P. Shanmugasundaram, Government Advocate in all W.Ps.

COMMON ORDER

(Order of the Court was made by P. Sathasivam, J.,)

Since the issue raised in all these writ petitions is one and the same, they are being disposed of by the following common order.

2. The petitioner in W.P.No.35545 of 2004 is a senior Advocate and he seeks to issue a writ of declaration, declaring Section 4(1-A)(a) of Tamil Nadu Motor Vehicles Taxation Act, 1974, introduced by the Tamil Nadu Amendment Act 27 of 1998, as amended by the Tamil Nadu Act 13 of 2003, by substituting Schedule III, Part-I and Section 3-A levying Green Tax in respect of vehicles mentioned under the Fourth Schedule of the Tamil Nadu Motor Vehicles Taxation Act, 1974 as ultra vires and violative of Article 14 of the Constitution of India, in so far as it amounts to levy of life tax for new registration of vehicle of the petitioner is concerned.

3. For convenience, we shall refer the case of the petitioner in W.P.No. 35545 of 2004:

(a) According to the petitioner, he placed an order for purchase of SKODA Car with Millinem Motors, Chennai, and the dealer gave an invoice for Rs.11,00,000/-, being the cost of the vehicle, and while the petitioner approaching the second respondent for registration of the vehicle, the second respondent insisted to pay life tax of the vehicle as per the amendment made to the Motor Vehicles Taxation Act, 1974, as

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amended by Act 13 of 2003. The proposed life tax would come to Rs.69,000/- as per the latest amendment of the Taxation Act. In contrast, annual tax payable by the said vehicle is around Rs.1,000/-, which will account for a period of 15 years (life), not more than Rs.15,000/- if paid annually. There is a clear case of expropriatory tax levied by way of compulsion in respect of new vehicles registered in the State of Tamil Nadu on the basis of the value of the vehicle, instead of the unladen weight of the vehicle as per the established principles of the Motor Vehicle Taxation. Therefore, it has become necessary for the petitioner to challenge the validity of the amendment of the Tamil Nadu Motor Vehicles Taxation Act.

(b) Notwithstanding the above, the levy of a new tax called "Green Tax" under Section 3-A of the Tamil Nadu Motor Vehicles Taxation Act, proposing to levy an additional tax in respect of vehicles specified in the Fourth Schedule for Motor Cycles exceeding 15 years a sum of Rs.500/- and other vehicles a sum of Rs.1,000/-. Section 4(1-A(a) read with Schedule-III, Part-I of the Tamilnadu Motor Vehicles Taxation Act, 1974, as amended by Tamilnadu Act 13 of 2003, is violative of Article 14 of the Constitution of India and beyond the competency of State Legislature.

4. Similar averments have been made in the other writ petitions questioning lifetime tax.

5. Heard Mr. K.M. Vijayan, learned Senior Counsel, appearing in person, Mr.R. Natesan, and Mr. M. Krishnappan, learned counsel for petitioners and Mr. N.R. Chandran, learned Advocate General, Mr. A.L. Somayaji and Mrs. Bhader Syed, learned Additional Advocate Generals for respondents.

6. Mr.K.M. Vijayan, learned Senior Advocate, appearing in person, has submitted that "Green Tax" for the object of eliminating pollution is not enumerated in the entries either under List-I or List-II of the Seventh Schedule of the Constitution of India. The residuary power of Taxation under Article 248(2) read with Entry 97 in List-I enables the Parliament alone to levy such "Green Tax" and it is therefore liable to be set aside for want of legislative competency.

7. Regarding levy of life tax for new registration of vehicles, Mr.K.M. Vijayan, learned Senior Advocate and Mr.Natesan, learned counsel for some of the petitioners, have raised the following contentions.

(a) The levy of Motor Vehicle Tax, solely on the value of the vehicle alone, is not sustainable. The present Act which levies 6% of the total cost of the vehicle as life tax at the time of registration of the vehicle will have no relevance or nexus in levying the life tax. The same is arbitrary and beyond the legislative competence of the State Legislature.

(b) Inasmuch as the Motor Vehicle Taxation has been held to be compensatory and the present levy will cease to be compensatory in character in so far as the levy is on the basis of the status of the

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owner or the nature of the vehicle or on the basis of the price or value of the vehicle. Therefore, the levy of life tax would be without jurisdiction.

(c) The levy is discriminatory, as it creates three different levy in respect of same class of motor vehicle which was used for a period of 15 years (life).

(d) The Act did not satisfy the test of reasonableness, as there is no justification for levying Rs.72,000/- for a period of 15 years towards motor vehicle tax, when the same is paid annually works out to Rs.12,000/-.

(e) Even though the Supreme Court has upheld the validity of the provisions introduced for levying "lifetime tax" based on "weight-cum-value" in the Motor Vehicles Taxation Act, under the Act 27 of 1998, the Supreme Court did not decide the point relating to same category of motor vehicle used for a period of 15 years, which suffered different rate of motor vehicle tax.

8. Learned Advocate General and Additional Advocate Generals met all the points. In so far as challenge relating to life time tax, it is their contention that the issue has been covered by a decision of the Supreme Court in STATE OF TAMIL NADU v. M. KRISHNAPPAN, reported in (2005) 4 Supreme Court Cases 53.

9. Now, let us consider the challenge relating to "Green Tax" imposed under Section 3-A of the Tamil Nadu Motor Vehicles Taxation Act, 1974. Section 3-A has been introduced by Act 13 of 2003 and came into force with effect from 01.08.2003. Section 3-A reads as follows:

> "3-A. Levy of Green Tax:- (1) There shall be levied and collected an additional tax called "green tax", in addition to the tax levied under section 3, on the motor vehicles suitable for use on road, as specified in the Fourth Schedule for the purpose of implementation of various measures to control air pollution.
>
> (2) The additional tax levied under sub-section (1) shall be paid in such manner as may be prescribed.
>
> (3) Subject to the provisions of sub-section (2), the provisions of the Act and the rules made thereunder excluding those relating to refund of tax shall, so far as may be, apply in relation to the levy and collection of the additional tax payable under sub-section (1), as they apply in relation to the levy and collection of motor vehicles tax under this Act."

10. The rate of tax is mentioned in the Fourth Schedule, which reads as follows:

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"1. Motor Vehicles other than a transport vehicle which has completed 15 years from the date of registration		
(i) Motor Cycle	Rs.500.00 (for five years)	
(ii) Other Motor vehicles	Rs.1000.00 (for five years)	
2. Transport Vehicle which has completed 7 years from the date of its registration (other than Autorickshaw)	Rs.500.00 (per annum)	

11. The only contention of the petitioners is that the State is not competent to levy 'green tax', because the tax is levied for implementation of various measures to control air pollution and according to them, it is a law falling within the Union List.

12. It is the stand of the Government that the tax in this case is on the vehicle using the road and the tax is collected on a motor vehicle suitable for use on road as specified for the purpose of implementation of various measures to control pollution. This would not make the pith and substance of the levy of the 'green tax' as a tax falling within the subject "pollution". The incidence of taxation is on the use of the motor vehicles on the road and the fact that the amount is collected to take measure to control pollution is only incidental and the tax cannot be considered as a law on pollution. For instance, if a person is disqualified from holding a post of President of a Panchayat on the ground that he is declared as an insolvent, then it cannot be held that such restriction is a law on insolvent. This is because it only prescribes a disqualification on a president who is holding an office under the State Act. Even though the purpose is to take measures in public interest to control pollution , but still it can be imposed only on a vehicle which uses the roads in Tamil Nadu.

13. This issue has been considered by the Supreme Court in STATE OF W.B. AND OTHERS v. PURVI COMMUNICATION (P) LTD., reported in (2005) 3 SCC page 711. In that case, an Entertainment Tax was levied on a multi system operator who exhibits the film through Cable TV Network under a Central Act. This levy was made under a State Act, namely, West Bengal Entertainment-cum-Amusement Tax Act. It was contended therein that it is a law falling under the Union Legislation, namely Cable Television Networks (Regulation) Act, 1995 and that therefore the State Government cannot impose any tax. This plea was rejected. The following discussion and conclusion are relevant: (para 36, 37, 38 , 39 and 41)

> "36. Therefore, the respondents as a cable operator have direct and proximate nexus with the entertainments provided by them through their cable television network and, as such, they are the taxable

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person in respect of their gross receipts in relation to any month for providing entertainments to the individual viewers. Therefore, the respondents have a direct and proximate nexus with the entertainments presented to the viewers inasmuch as in terms of the respondent's agreement vide clause 4(d): "Recording and then retransmission of the signals by the franchisee is not allowed." That apart, the name of every subscriber having connection with the respondent's network must be on their records and the franchisee must furnish information of business honestly and completely to the respondents pursuant to clause 4(c) of the said agreement. In the event, any charge received from a subscriber is not paid to the respondent, the franchisee shall pay a sum equivalent to three times of the amount that the franchisee has saved by not paying the requisite amount to the respondents in respect of such subscriber.

37. In our view, the respondents as a cable operator, for the purpose of levy and collection of tax under sub-section (4-a) of Section 4-A of the Act have direct and close nexus with the entertainments made available to the viewer through their cable television network. The performance, film or programmes shown to the viewers through the cable television network come within the meaning of entertainments and therefore within the legislative competence of the State Legislature under Entry 62 of List II of the Seventh Schedule to the Constitution to make law for the levy and collection of tax on such entertainments.

38. A tax under Entry 62 of List II of the Seventh Schedule to the Constitution may be imposed not only on the person spending on entertainment but also on the act of a person entertaining, or the subject of entertainment. It is well settled by this Court that such tax may be levied on the person offering or providing entertainment or the person enjoying it. The respondents are admittedly engaged in the business of receiving broadcast signals and then instantaneously sending or transmitting such visual or audio-visual signals by coaxial cable, to subscribers' homes through their various franchisees. It has been made possible for the individual subscribers to choose the desired channels on their individual TV sets because of cable television technology of the respondents and of sending the visual or audio-visual signals to sub-cable operators, and instantly retransmitting such signals to individual subscribers for entertaining them through their franchisees. The respondents' act is, no doubt an act of offering entertainment to the subscribers and/or viewers. The respondent is very much directly and closely involved in the act of offering or

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providing entertainment to the subscribers who are on his record. For the fact of offering or providing entertainment to the subscribers and/or viewers, the respondents receive charges, which are realised or collected by their franchisee from the ultimate subscribers. Their franchisee, called as sub-cable operator under the said 1982 Act having no independent role to offer or provide entertainments to the subscribers inasmuch as franchisees have to depend entirely on the respondents' communication network and this communication network of the respondents consists of receiving and sending visual images and audio and other information for preparation of the subscribers and/or viewers; without the communication network service of the respondents, no entertainments can be offered or provided to the subscribers and/or viewers.

39. In the tax matters, the State Legislature is free, if it has legislative competence, to choose the persons from whom the tax levied on entertainments is to be collected. In other words, what are taxed are the entertainments, which is very much within the ambit of Entry 62 of List II of the Seventh Schedule. It is the respondents who as cable operator for the purpose of the said 1982 Act are engaged in the business of providing or offering entertainments which include showing of films, various serials, cricket matches and dramatic performances to the subscribers, and the tax is imposed on the act of offering such entertainments in this way to such subscribers and/or viewers. The entire communication network service is built up and controlled by the respondents. Whatever amount is received or receivable by the respondent in respect of providing such entertainment is taxable under sub-section (4-a) of Section 4-A of the said 1982 Act which has a direct and sufficient nexus with the entertainment.

40. .....

41. We also see no substance in the submission that the impugned legislation impinges on the field occupied by the Central legislation. The aforesaid Central legislation has been enacted to regulate the operation of cable television network in the country and matters connected therewith or incidental thereto whereas the State legislation is for levy of entertainment tax on entertainment within the legislative field exclusively assigned to the State Legislature under Entry 62 of List II of the Seventh Schedule of the Constitution. Thus the objects sought to be achieved by two different Acts enacted under two different legislative fields exclusively assigned to the respective legislatures are entirely distinct and separate. The Cable Television Networks (Regulation)

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Act, 1995 of the Union Legislature does not denude the State Legislature of the power of levying entertainment tax on entertainment."

14. Without prejudice to the above stand, learned Advocate General and Additional Advocate Generals submitted that the assumption that pollution law would fall within Union List and only the Central Government has power to legislate law on that subject does not appear to be right. It is submitted that the Supreme Court was concerned of the pollution caused by the Auto- Rickshaws in the City of Delhi and therefore directed the State Government to make it compulsory to fit CNG Converters to use Compressed Natural Gas in all public transport vehicles. In M.C. MEHTA v. UNION OF INDIA, reported in 1998 (8) SCC Page 648), the Supreme Court observed that necessary subordinate rule or legislation should be enacted prohibiting the registration of any public transport vehicle to ply without catalytic converter. This direction was issued to a registering authority and therefore the law could be passed only by the State Government. As a matter of fact, Karnataka Government has issued a notification under Section 67 of the Motor Vehicles Act 1988 directing all Auto-Rickshaws to convert into CNG vehicles within a particular time.

15. There is no entry in Seventh Schedule to the Constitution of India regarding pollution, but the subject comes under Entry 6, Public Health, which is in the State list. Therefore, even assuming the law falls within the subject pollution, State Government would be competent to enact a law under Entry 6 of List II of State List. The submission of the Advocate General and Additional Advocate General are well founded.

16. It is also brought to our notice that Water (Prevention and Control of Pollution) Act was enacted by the Central Government. But, Central Government has no power to enact such law on the above subject. Yet the said Acts were enacted by the Central Government under Article 249 of the Constitution of India, which enable the Union to legislate on National interest even in respect of State list. This is made clear from the preamble of the Water (Prevention and Control of Pollution) Act, 1974. The preamble of the said Act reads as follows:-

"WHEREAS it is expedient to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution and for conferring on and assigning to such Boards powers and functions relating thereto;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in Articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of Clause (1) of Article 252 of the Constitution resolutions have been passed by all

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the Houses of the Legislatures of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal to the effect that the matters aforesaid should be regulated in those States by Parliament by law;"

17. From the above discussion, we conclude that,

(1) the Notification under Section 3(A) is not a law relating to Pollution Control. It is a law pertaining to imposition of tax on a motor vehicle using Tamil Nadu roads which are old vehicles;

(2) the fact that the amount recovered are used for implementation of various measures to control pollution will not make the pith and substance of the amendment of the Act as one falling within Pollution;

(3) the Supreme Court itself has directed that necessary legislation and rules are to be issued to prevent motor vehicle causing pollution and such direction should be issued to the registering authority, which means that can be issued only by the State Government; and

(4) the subject 'pollution' falls under Entry 6 of State List, namely "Public Health" and the Pollution Control Legislation are passed in National interest under Article 249 of the Constitution. In fact, a law has been enacted by the Central legislation in respect of Water and Air Pollution, but it does not take away the power of the State Government to legislate on the above subject. The power is still available under Entry 6 of List II State List, for State to legislate. Accordingly, we reject the contentions raised by Mr.Vijayan, learned Senior Advocate, relating to "Green tax".

18. Now, we shall consider the challenge relating to "lifetime tax". It would be useful to refer the relevant provisions of the Tamil Nadu Motor Vehicles Taxation Act, 1974 and the Tamil Nadu Motor Vehicles Taxation Rules, 1974.

Section 2(3-A) defines life time tax.
"life time tax" means the tax leviable in one lump sum in advance for the life time of a motor vehicle."

Section 3 is a charging section. It runs as follows:
"Levy of Tax.
(1) Subject to the provisions of subsection (2) tax shall be levied on every Motor Vehicle used or kept for use in the State of Tamil Nadu at the rate specified for such vehicle [in the First schedule or, in the Second schedule or in the Third Schedule, as the case may be].

(2) The Government may, by notification, from time

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to time, increase the rate of tax specified in the Schedules:

Provided that such increase, by notification, under this sub-section shall not, in the aggregate, exceed fifty percent of the rate specified in the First schedule or, in the Second Schedule, or in the Third Schedule, as the case may be.

(3) All references made in this Act to the Schedules shall be considered as relating to the Schedule(s) as for the time being amended in exercise of the powers conferred by this section."

THIRD SCHEDULE
(See Sec.4 (1-A)
PART-I
At the time of registration of new motor vehicles
with effect from 1.7.1998 (Act 27 of 1998)

Item (1) "(1)		If the value of the vehicle is not more than Rs.5 Lakhs.		If the value of the vehicle is more than Rs.5 Lakhs, but not more than Rs.10 Lakhs		If the value of the vehicle is more than Rs.10 Lakhs	
		Individual Rs. (2)	Others Rs. (3)	Individual Rs. (4)	Others Rs. (5)	Individual Rs. (6)	Others Rs. (7)
a.	Weighing not more than 700 kgs. Unladen	8210	16420	12320	24640	16420	32840
B	Weighing more than 700 kgs. But not more than 1,500 kgs in weight unladen	10950	21900	16340	32860	21900	43800
C	Weighing more than 1,500 kgs but not more than 2,000 kgs in weight unladen	13690	27380	20540	41080	27380	54760
D	Weighing more than 2000 kgs but not more than 3000 kgs unladen	15060	30120	22590	45180	30120	60240

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Item (1)		If the value of the vehicle is not more than Rs.5 Lakhs.		If the value of the vehicle is more than Rs.5 Lakhs, but not more than Rs.10 Lakhs		If the value of the vehicle is more than Rs.10 Lakhs	
E	Weighing more than 3000 kgs. Unladen in respect of which private transport vehicles permit is not required under Motor Vehicles Act	17110	34220	25670	51340	34220	68440

"THIRD SCHEDULE
(See Section 4(1-A))
Part-1
New Motor Vehicles
with effect from 1.8.2003 (Act 13/2003)

	Rate of Tax
1.At the time of registration.	6 percent of the total cost of the vehicle

PART-II
Old Motor Vehicles

At the time of assigning new registration mark under section 47 of the Motor Vehicles Act, 1988 if the vehicle is registered on or after the date of the commencement of the Tamil Nadu Motor Vehicles Taxation (Amendment) Act, 2003 and if its age from the month of such registration is:-	
	Rate of Tax
1.Not more than one year	5.75 per cent of the cost of the vehicle
2.More than one year but not more than two years	5.50 per cent of the cost of the vehicle
3.More than two years but not more than three years	5.25 per cent of the cost of the vehicle
4.More than three years but not more than four years	5.00 per cent of the cost of the vehicle
5.More than four years but not more than five years	4.75 per cent of the cost of the vehicle
6.More than five years but not more than six years	4.50 per cent of the cost of the vehicle

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At the time of assigning new registration mark under section 47 of the Motor Vehicles Act, 1988 if the vehicle is registered on or after the date of the commencement of the Tamil Nadu Motor Vehicles Taxation (Amendment) Act, 2003 and if its age from the month of such registration is:-	
7.More than six years but not more than seven years	4.25 per cent of the cost of the vehicle
8.More than seven years but not more than eight years	4.00 per cent of the cost of the vehicle
9.More than eight years but not more than nine years	3.75 per cent of the cost of the vehicle
10.More than nine years but not more than ten years	3.50 per cent of the cost of the vehicle
11.More than ten years but not more than eleven years	3.25 per cent of the cost of the vehicle
12.MOre than eleven years but not more than twelve years	3.00 per cent of the cost of the vehicle
13.More than twelve years but not more than thirteen years	2.75 per cent of the cost of the vehicle
14.MOre than thirteen years but not more than fourteen years	2.50 per cent of the cost of the vehicle
15.More than fourteen years	2.25 per cent of the cost of the vehicle

Explanation:- For the purpose of this Schedule, "Cost of the vehicle" means the cost of vehicle at the time of purchase, determined in such manner as may be prescribed."

19. We have already referred to the challenge relating to imposition of life time tax in the earlier part of our order. In reply to those contentions, learned Advocate General as well as the Additional Advocate Generals, by taking us through the judgment of the Supreme Court, reported in (2005) 4 SCC 53, -(State of T.N. v. M.Krishnappan), contended that the said decision covers all the contentions raised, including the validity of the life time tax based on the value of vehicles.

20. It is the claim of Mr.K.M.Vijayan, learned senior counsel as well as Mr.Natesan, learned counsel for some of the petitioners, that though an argument was advanced contending that the levy of tax based on value of the vehicle cannot be sustained, according to them, the said issue has not been dealt with by the Supreme Court. Inasmuch as the main issue revolves around the above referred decision of the Supreme Court, let us consider the factual aspects, contentions raised and the conclusion arrived at therein.

21. The question that arose for determination in that decision was whether "lifetime tax" leviable in lumpsum in advance for the "lifetime" of a motor vehicle (four wheeler) on the basis of the

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index of "weight-cum-value" ceases to be compensatory in nature, as held by the impugned judgment of this Court, dated 11.11.1999 in W.P.Nos.11815, 15139 and others of 1999. It is to be noted that before this Court, the writ petitioners sought to challenge section 4(1-A)(a) read with Part-I Schedule-III of the Tamil Nadu Motor Vehicles Taxation Act, 1974 as amended. The first writ petition which was dealt with by this Court is W.P.No.15139 of 1998 filed by Mr.M. Krishnappan. The facts of the said case are as follows.

(a) Mr.M. Krishnappan, challenged the provisions of Section 4(1-A)(a) imposing lifetime tax on motor vehicles to be registered on and after 1-7-1998 being the date on which the amending Act 27 of 1998 came into force. By the said amending Act, Section 3-A as also the aforestated Sections 4(1-A)(a), (b) came to be inserted in the said 1974 Act by which a dichotomy was created between the vehicles registered prior to 1-7-1998 (old vehicles) and the vehicles registered thereafter (new vehicles). In respect of the old vehicles, an option was given either to pay one-time tax or an annual tax, but in the case of new vehicles no such option was provided for and consequently, it became compulsory to pay one-time tax on and after 1-7-1998. At this stage, it may be stated that the respondent-Mr. M.Krishnappan, had purchased, on 23-9-1998. a passenger car "Tata Sumo", on payment of Rs.5,25,451, the unladen weight of which was 1700 kg on which he was charged a one-time tax of Rs.20,540.

(b) The impost was accordingly challenged as unconstitutional, discriminatory, arbitrary and violative of Article 14 of the Constitution, besides being inconsistent with the scheme of the 1974 Act. The main thrust of the challenge was that the levy of motor vehicle tax was compensatory in nature for the use of public road; that the wear and tear of such roads maintained by the State had relevance to the unladen weight of the vehicles and not to the value of the vehicle specified in Part I of the Third Schedule; that the value of the vehicle cannot constitute the basis for fixing the lifetime tax and that such value had no relevance with the maintenance of the roads and consequently the levy was arbitrary and unreasonable. The other incidental contentions were that by insertion of Section 4(1-A)(a) read with Part-I of Schedule-III to the Act, an inconsistency stood introduced in the said 1974 Act, as the pre-amended Act was based on the laden weight of the vehicle; that the said parameter continued to apply for vehicles registered before 1-7-1998; that the new index of "weight-cum-value" was made applicable only to new vehicles; that the said index had no relevance to the use and maintenance of the road, that the differentia between old and new vehicles had no nexus with the wear and tear of the roads; that there was no difference between the two types of vehicles in terms of user of the roads; and that the

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State Legislature had committed a grave blunder in introducing Section 4(1-A)(a) making it compulsory for the registered owners of the new motor vehicles to pay one-time tax resulting in an unwarranted and unjustified increase in the payment of tax.

(c) In the counter affidavit, filed on behalf of the State, the levy was sought to be justified on the ground that w.e.f.1-4-1989, two-wheeler (non-transport)) vehicle were made to pay "lifetime" tax at the time of their registration by inserting an amendment to Section 4 of the Act, as Section 4(1-A).

(d) In view of the success of "lifetime tax" for two-wheelers, the Government decided to introduce lifetime tax, without option, for four-wheelers, like cars and jeeps. (See Statement of Objects and Reasons of the amending Act 27 of 1998.) That option given to the said old vehicles was continued and the classification between old and new cars in the payment of "lifetime tax" was based on an intelligible differentia, hence, there was no violation of Article 14 of the Constitution.

(e) By the impugned judgment, the High Court held that the impugned amending Act 27 of 1998, which imposed the levy of lifetime tax based on the value of the vehicle registered on and after 1-7-1998 was inconsistent with Section 4(1-A)(b); that prior to the amending Act 27 of 1998, the tax was levied only on laden weight and not on the value of the vehicle which had no nexus with the use of the roads; that by introducing the "value" as an index, the tax has ceased to be compensatory and consequently, the levy fell outside Entry 57 of List II of the Seventh Schedule to the Constitution, which in turn attracted Article 265 of the Constitution resulting in levy and collection of tax without the authority of law."

22. The following points were urged on behalf of the State before the Supreme Court: The concept of collection of one-time tax incorporated in Section 4(1-A(a) read with Schedule III (para I) of the 1974 Act has been upheld. In this connection, reliance was placed on the judgment of this Court in the case of State of Maharashtra v. Madhukar Balkrishna Badiya (AIR 1988 SC 2062). It was urged that the index of "weight-cum-value" will not make the levy lose its regulatory and compensatory character. That, the mode of collection will not alter the nature of the levy under Section 3 of the said 1974 Act. That, imposition of tax depending on the status of the owner or the nature of the vehicle will not alter the nature of the levy. It was urged that continuance of the option to pay the tax annually or on one-time basis did not violate Article 14. According to the learned counsel, the State Legislature was competent to tax the vehicles, hence, the impugned impost fell under Entry 57 List II of the Seventh Schedule to the Constitution.

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23. On behalf of the vehicle owners/assesees, it was submitted that collection of one-time tax based on the value of the vehicle in the garb of regulation had no nexus with the use and maintenance of roads; that, "value" had no connection with the costs or expenses of administration; that the impugned levy based on the status of the owner or the nature of the vehicle made the levy fall outside Entry 57 List II and the classification for the purposes of the said tax between the old and the new vehicles made the levy arbitrary, discriminatory and unreasonable under Article 14 of the Constitution. In the circumstances, it was submitted that no interference was called for with the impugned judgment.

24. After referring to the rival submissions, the Honourable Supreme Court referred to relevant provisions of the Act, namely, Sections 2, 3(1), 3(2), 4, Third Schedule Part-I, added by amending Act 27 of 1998 and framed the following questions for consideration.

> "Whether the High Court was right in holding that with the introduction of the concept of "value" as the basis of the tax, the impugned levy fell outside Entry 57 of List II of the Seventh Schedule to the Constitution."

The Supreme Court has also framed a limited question i.e. whether the tax ceased to be compensatory and regulatory with the introduction of "weight-cum-value" index and whether the said index is contrary to the scheme of the said 1974 Act.

25. As observed earlier, we are duty bound to refer to the discussion and conclusion of Their Lordships on the above mentioned issues. (para 19, 22, 23, 24, 27 and 28)

> "19. At the outset, it may be noted that depreciation is a function of time and maintenance. In the present case, we are concerned with the "lifetime tax" which is one-time payment spread over the economic life of the vehicle. The said tax is based on time, use and maintenance of the roads. As stated in the judgment of this Court in Bombay Tyre (AIR 1984 SC 420) any standard, which maintains a nexus with the essential character of the levy can be regarded as a valid basis for assessing the measure of the levy. Applying the said test to the present case, we hold that the index of "weight-cum-value" maintains the nexus with the essential character of the levy in question and, therefore, the High Court erred in holding that by introduction of the value of the vehicle as a parameter, the levy ceases to be regulatory and compensatory in nature. It is important to bear in mind that Entry 57 of List II of the Seventh Schedule to the Constitution refers to taxes on vehicles suitable for use on roads. Under the said entry, a field is provided to the State Legislature to impose the impugned tax in respect of every aspect of a vehicle. When the Constitution

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provides a field of legislation it has to be read in the broadest possible terms. When the State is empowered to levy taxes on goods it is empowered to levy such taxes on every aspect of such goods. Similarly, when the State is empowered to levy tax on the vehicle, it is empowered to levy tax on every aspect of the vehicle. Throughout the Constitution the legislative power relating to taxes and the legislative power relating to general subjects is treated separately and is not subsumed under a general head. Applying the above tests to the present case, we are of the view that the High Court had erred in holding that on account of introduction of "weight-cum-value" index in the Third Schedule to the Act, the impugned tax had ceased to be regulatory and compensatory and consequently, the said levy fell outside Entry 57 List II.

.....

22. In the present case we are satisfied that the levy in question being one-time tax continues to be a part of regulatory measure. For administrative reasons, in the matter of collection of tax, one-time payment of tax is administratively convenient and at the same time, it is also beneficial to the users of the vehicles who do not have to go to the office of the RTO every year to pay the annual taxes. It is also beneficial to the users of the motor vehicles, as they do not have to pay taxes at the increased rates from time to time over the economic life of the vehicle as contemplated by Section 3(2) of the Act. Moreover, weight alone may not provide a sufficient parameter/basis for imposition of "lifetime tax". As an illustration, we may point out that the weight of Honda CRV car is 1500 kg as against the weight of Tata Indigo GLX which weighs 1490 kg and yet the cost of Honda CRV is Rs.15,24,396 lakhs whereas the price of Tata Indigo is Rs.5,08,651 lakhs. Hence, weight index alone may not constitute the basis of "lifetime tax".

23. In the circumstances, we reiterate that introduction of "weight-cum-value" index will not make the levy non-regulatory/non-compensatory. Further, under the unamended 1974 Act, weight was the basis of the impugned levy as an annual tax. But with the introduction of a "lifetime tax", the entire future projection spread over the economic life of the vehicle had to be taken into account along with other factors like fall in the value of the rupee, inflation, rising costs of the material, cross-subsidy, etc., and consequently, it was necessary to introduce the new index of "weight-cum-value" and factors like paying capacity of the owner. In our view, these factors have nexus with the use of the roads over a period of time and hence, the impugned levy fell within Entry 57 List II of the Seventh Schedule to the Constitution.

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24. We also do not find the impugned levy to be discriminatory, arbitrary or unreasonable so as to violate Article 14 of the Constitution as held by the High Court. In the case of Municipal Corpn. of the City of Ahmedabad v. Jan Mohammed Usmanbhai (1986) 3 SCC 20) this Court held that Article 14 forbids class legislation and not reasonable classification and in order to pass the test of reasonable classification, the classification must be founded on an intelligible differentia which distinguishes persons or class of persons that are grouped together from the others left out of that group and that such differentia must have a rational relation to the object sought to be achieved by the statute in question.

....

27. There is no merit in the contention advanced on behalf of the respondent herein that there is violation of Article 14 of the Constitution by imposing higher burden of tax on vehicles owned by "others" vis-a-vis the vehicles owned by the "individuals" in Part-I of the Third Schedule. We do not find merit in this argument. Firstly, as held by this Court in the case of Bombay Tyre, levy is a constitutional concept, whereas collection of a tax as well as incidence of tax comes within the statutory measure. The mode of collection or the incidence of tax cannot be the conclusive test to decide the nature of the levy. The nature of the levy is a concept different from the mode of collection of tax. Levy is a constitutional concept whereas mode of collection of tax is a statutory concept. They stand on different footings. Secondly, it is important to remember the words of Lord Wilberforce, quoted with approval by the House of Lords in the case of Barclays Mercantile Business Finance Ltd. v. Mawson (Inspector of Taxes) (2005) 1 All ER 97) stating that,

"a tax is generally imposed by reference to economic activities or transactions which exist in the real world".

When an economic activity is to be valued it is open to the lawmaker to take into account various factors including the paying capacity of the user, the value of the vehicle, the economic life of the vehicle, etc. Lastly, in the present case, for the vehicles registered before 1-7-1998 the option between annual and one-time tax is retained.

28. Before concluding, we may quote the observations of the Division Bench of the Kerala High Court in the case of Anas v. State of Kerala ((1999) 3 KLT 147) (to which one of us, Dr.AR.Lakshmanan, J, was a party), which state as under:

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> "A taxing statute can be held to contravene Article 14 of the Constitution only if it purports to impose on the same class of property similarly situated an incidence of taxation which leads to obvious inequality. It is for the legislature to decide on what objects to levy what rate of tax and it is not for the courts to consider whether some other objects should have been taxed or whether a different rate should have been prescribed for the tax. It is also to be noted that the legislature is competent to classify persons or properties into different categories and tax them differently, and if the classification thus made is rational, the taxing statute cannot be challenged merely because different rates of taxation are prescribed for different categories of persons or objects."

26. The conclusion of the Honourable Supreme Court is as under: (para 29)

> "29. For the aforestated reasons, there is no violation of Article 14 of the Constitution. As stated above, the impugned levy of lifetime tax is based on rational and reasonable classification founded on an intelligible differentia having a rational relation to the object of the impugned levy."

27. The above referred decision makes it clear that the Supreme Court considered the main issue, namely, whether the introduction of the concept "value" as the basis of the tax and whether the tax ceased to be compensatory and regulatory with the introduction of "weight-cum-value" index and whether the said index is contrary to the scheme of 1974 Act. The Supreme Court has held that the index "weight-cum-value" maintains the nexus with the essential character of levy in question and disagreed with the contrary view taken by this Court. The Supreme Court has also disagreed with the view of this Court in holding that on account of introduction of "weight-cum-value" index in Third Schedule to the Act, the impugned Act ceases to be regulatory and compensatory and consequently the said levy fell outside the Entry 56 in List-II of the Seventh Schedule to the Constitution. Their Lordships agreed with the State's contention that the levy in question being one time tax continues to be a part of regulatory measure. Their Lordships also held that the new index "weight-cum-value" and factors like, paying capacity of the owner, have nexus with the use of roads over a period of time and hence the impugned levy fell within Entry 57 List-II of Seventh Schedule to the Constitution. By rejecting the contention relating to violation of Article 14 of the Constitution, finally, the Supreme Court has concluded that the levy of life time tax is based on rational and reasonable classification founded on an intelligible differentia having a rational relation to the object of the impugned levy. We are of the view that the said decision squarely

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applies and covers all the issues raised.

28. In addition to the same, learned Advocate General, by drawing our attention to the similar taxation provisions, namely, levy of life time tax for motor vehicles from Karnataka as well as Andhra Pradesh, contended that the Supreme Court has upheld similar action taken in those States. He also placed reliance on the entries in the Schedule appended to Karnataka Motor Vehicles Taxation Amendment Act, 1997 (Karnataka Act 8 of 1997), which reads as follows.

"PART A5
[See Section 3(1)]

Life Time Tax for Motor cars, Jeeps, Omnibuses and Private Service Vehicles

Item No.	Class of vehicles	Motor cars and Jeeps not exceeding 800 cc	Motor cars and Jeeps exceeding 800 cc but not exceeding 1500 cc	Motor cars and Jeeps exceeding 1500 cc and above or attached with trailer	Motor cars and Jeeps exceeding 1500 cc and cost of vehicle exceeds more than Rs.6 lakhs	Omni buses, Private Service Vehicles having floor area upto 4 sq.mtrs.
1	2	3	4	5	6	7
A.	At the time of Registration of new vehicle	12000-00	18000-00	24000-00	45000-00	30000-00
.....						

29. Clause-6, namely, imposition of life time tax for motor cars and jeeps exceeding 1500 CC and cost of vehicle exceeding more than six lakhs was under challenge before the Karnataka High Court as unconstitutional and violative of Article 14 of the Constitution of India. It was also challenged on the ground that there was no rational basis for fixing higher tax liability. The learned Single Judge of the Karnataka High Court by order dated 29.06.1999 held that the vehicle costing Rs.6 lakhs and above constituted a different class by itself and, therefore it cannot be said that there is discrimination in the levy of tax and therefore the provisions cannot be considered to be violative of Article 14 of the Constitution of India and accordingly dismissed the writ petition. Aggrieved by the order of the learned Single Judge, dismissing the writ petition, the vehicle owner preferred Writ Appeal before a Division Bench of the Karnataka High Court. By order dated 23.02.2000 in Writ Appeal No.7000 of 1999, the Division

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Bench upheld the order of the Single Judge. The petitioner/appellant, namely, Mohan Das N. Hegde, filed appeal before the Supreme Court. The Honourable Supreme Court, by Judgment, dated 18.03.2005, in Civil Appeal No.7398 of 2000, reported in (2005) 4 SCC 64, following the judgment in the case of State of Tamil Nadu vs. M. Krishnappan (2005) 4 SCC 53, dismissed the civil appeal and confirmed the judgment of the High Court.

29. It is useful to elaborate the contentions raised before the Karnataka High Court and the issues raised before the Supreme Court. The appellant before the Supreme Court was the owner of "Opel Astra" which was taxed on "value" basis under 1997 Act. The said 1997 Act was challenged on the ground that the levy of "lifetime tax" on the value of the car exceeding 1500 cc was arbitrary, discriminatory and hit by Article 14 of the Constitution of India. As said earlier, the said contention was rejected by the learned Single Judge as well as the Division Bench of the Karnataka High Court. Even before the Supreme Court, an argument was advanced that the introduction of one more parameter, namely, the "value" of the vehicle, the impugned levy has ceased to be regulatory/compensatory in nature, as such a parameter has no nexus with the wear and tear of the public road. In the circumstances, it was urged that the impugned Act was arbitrary, discriminatory and violative of Article 14 of the Constitution. Repelling the said contention, the Honourable Supreme Court has concluded as follows: (para 6)

> "6.We do not find any merit in the above arguments. The above classification indicates a measure or a rate of tax applied differently on different vehicles depending upon various circumstances and so long as there is competence to levy and collect the tax under Entry 57 List II of the Seventh Schedule to the Constitution, the levy cannot be struck down only on the ground that the incidence of the tax falls differently on different categories of vehicles. The burden has to be distributed on different classes of vehicles or on different persons who owned the vehicles. How equitably such tax could fall on different persons is not for the Court to decide. Lastly, this matter is squarely covered by our judgment delivered today in the case of State of T.N. v. M.Krishnappan. (2005) 4 SCC 53.
>
> 7. For the aforestated reasons, we do not find any infirmity in the impugned judgment of the High Court. Accordingly, the appeal fails and is dismissed, with no orders as to costs."

30. As rightly pointed out by the learned Advocate General, the above judgment in Mohan Das N.Hegde case shows that an argument was advanced on behalf of the appellant/vehicle owner, that by introduction of one more parameter, namely, the "value" of the vehicle,

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the impugned levy has ceased to be regulatory/ compensatory in nature, as such the said parameter has no nexus with the wear and tear of the public road. With regard to the said argument, which finds place in paragraph 5 of the said decision, their Lordships have rejected the same in paragraph 6, by saying "We do not find any merit in the above arguments". We are satisfied that the Honourable Supreme Court not only followed the judgment in M.Krishnappan's case, but also considered the other relevant factor, namely, the "value" of the vehicle and rejected the contention raised by the appellant therein.

31. Learned Advocate General has also brought to our notice similar taxation measure by the Andhra Pradesh Government by way of Andhra Pradesh Motor Vehicles Taxation Act, 1963. The Third Schedule reads as under.

SCHEDULE-III A.P.MOTOR VEHICLES TAXATION ACT, 1963

THE THIRD SCHEDULE

(See Second Proviso to sub-section (2) of Section 3)

Sl.No.	Period/ Class of vehicle	Motor Cycles including Tri-cycles, Motor, Scooters & Cycles with or without attachment		Invalid Carriage	Cars and jeeps and other Non-Transport vehicles other than Omni buses not exceeding 2286 kgs in ULW			
		Vehicles not exceeding 60CC	Vehicles exceeding 60 CC		Weighing not more than 500 kgs. ULW	Weighing more than 500 kgs but not more than 1524 kgs ULW	Weighing more than 1524 kgs but not more than 2286 kgs ULW	Additional tax payable in respect of vehicles under columns 6 to 8 used for drawing trailers
-1	-2	3	4	5	6	7	8	9
1	At the time of Registration of new vehicles	1,050 or 7% of the cost, whichever is higher	1,890 or 7% of the cost, whichever is higher	693/-	5,800 or 7% of the cost whichever is higher	10,080 or 7% of the cost whichever is higher	11,200 or 7% of the cost whichever is higher	2,604/-

32. The above mentioned third schedule was inserted by Act 23 of 1995 and came into force with effect from 24.05.1995, in and by which, life tax had been increased from 5% to 7%. The said life tax introduced by the Andhra Pradesh Government was challenged in a batch of

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writ petitions, namely, W.P.No.3499 of 2000, etc. before the Andhra Pradesh High Court. Similar contentions as urged in the cases of Krishnappan and Mohan Das N.Hegde were raised before the Andhra Pradesh High Court. The Division Bench of Andhra Pradesh High Court, having regard to the rival contentions advanced by both parties, framed the following question for consideration:

> "Whether the impugned amendments to the extent they permit computation of life tax in respect of four wheelers other than chasis of motor vehicles and omni buses on the basis of the cost of those vehicles is unconstitutional, besides certain other subsidiary questions such as whether the impugned provisions are unconstitutional, ultra vires the power of the State Legislature and offend Articles 14 and 19(1)(g) of the Constitution, whether the levy of life tax is compensatory or regulatory in nature or ceases to be compensatory."

33. It is clear that the main thrust of the argument before the Division Bench of the Andhra Pradesh High Court was relating to levy of tax based on the cost of the vehicles. The following conclusion of the Division Bench is relevant. (page 52)

> "In order to determine whether a tax is compensatory or not, what the Court has to see is whether what is required by way of tax is in truth and substance either a contribution towards the construction and maintenance of the roads, bridges and other facilities that are necessary for providing a smooth transport service or an exaction far in excess of what is needed for providing such facilities. Further, the Court cannot insist upon an exact correlation between the tax recovered and the cost so incurred because such exact correlation is in the very nature of things impossible to attain and impracticable to maintain. It is also well settled that the mere fact that a tax falls heavily on certain goods or persons may not always result in its invalidity, if it can be shown the tax so collected is used by the State for providing services to the tax payers. The levy of different rates of tax or different methods of tax ipso facto would not result in any hostile discrimination to attract the wrath of Article 14 postulates. In evolving different rates or method of tax, it is open to the law-maker to take into account the administrative convenience, convenience of the users of the facilities and such other considerations which are intended to reduce the administrative costs in collecting the taxes. It needs to be emphasised that the amount of wear and tear caused to the roads by any class of motor vehicles may not always be a determining factor in classifying motor vehicles for purposes of taxation."

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34. Finally, rejecting all the contentions raised on the side of the vehicle owners, the Division Bench upheld the Andhra Pradesh Motor Vehicles Taxation Act, 1992 (Amendment Act 11 of 1992), and Amendment Act 23/1995, as constitutionally valid and dismissed all the writ petitions. The said decision of the Division Bench of the Andhra Pradesh High Court also supports the stand taken by the Government.

35. The Courts have permitted the legislatures to exercise an extremely wide discretion in classifying items for tax purposes, so long as it refrains from clear and hostile discrimination against particular persons or classes. Entry 57 of List II does not specify any base for taxation. Therefore, if more than one could be a basis, the legislature has the discretion and the latitude to choose any one of the permissible/available basis. Therefore, it cannot be said that the motor vehicles tax should be levied always on the basis of unladen weight and it cannot be on any other basis. To the same effect, matters have been disposed of by the Division Benches of Karnataka High Court vide Gajanan Motor Transport Co. Ltd. vs. State of Karnataka - AIR 1991 Karnataka 40 and Mohan Das N.Hegde as well as the judgment of the Andhra Pradesh High Court in W.P.No.3499 of 2000, etc. Batch, dated 01.11.2002, with which we are in respectful agreement. We have already referred to the conclusion of the Supreme Court rejecting similar contentions.

36. In the light of the above discussion, we are satisfied that the State Legislature has the power to fix motor vehicles tax as a percentage of the total cost of the vehicle and there is no prohibition under any law against the same. It is brought to our notice that several other States in India have been adopting this formula for several years. The contention of the petitioners that this levy which is based on the value of the vehicle has no relevance or nexus in levying life time tax cannot be accepted. It is futile to contend that the levy is arbitrary and beyond the legislative competence of the State Legislature. The motor vehicle tax has been held as compensatory. The Government have explained in their counter affidavit that because of the increasing expenditure on the construction, improvement and maintenance of roads, it was announced in the budget to mobilize more resource to facilitate development and proper upkeep of the roads and infrastructure. In order to meet the increasing cost of road construction and maintenance, according to the State Government, such revision was notified. The following details have been furnished to demonstrate the receipt and expenditure on road construction.

Receipt under Motor Vehicles tax

2002-2003 Rs.556.00 crores

2003-2004 Rs.692.00 crores

Expenditure on Road Programme

	2002-2003 (Estimated) Rs.	2003-2004 Rs.
1.Improvement to roads, laying of new roads and construction of bridges.	339.00 crores	794.60 crores

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2.Maintenance	228.50 crores	257.56 crores
Total	567.50 crores	1052.16 crores

37. We have already concluded that levy of lifetime tax on the basis of the "cost of the vehicle" will not alter the compensatory character of the motor vehicle tax. Therefore, the levy of lifetime tax on this basis is within the jurisdiction of the State Legislature. It is also brought to our notice, in respect of two wheelers levy of life time tax is based on the cubic capacity of the engine. Besides, in respect of stage carriages, the tax is collected with reference to seating capacity. The discussion also shows that the levy of motor vehicle tax as a percentage on the cost of the vehicle is neither arbitrary nor discriminatory in character as alleged.

38. In conclusion, we do not find any substance in any of the contentions raised by the learned counsel for the petitioners while assailing the constitutional validity of the impugned provisions.

39. In the result, we hold that Section 4(1-A)(a), introduced by the Tamil Nadu Amendment Act 27 of 1998, as amended by the Tamil Nadu Act 13 of 2003, by substituting Schedule-III, Part-I, of the Tamil Nadu Motor Vehicles Taxation Act, 1974 as it relates to levy of lifetime tax for new registration of vehicles and Section 3-A, levying Green Tax in respect of vehicles mentioned in Fourth Schedule of the Tamil Nadu Motor Vehicles Taxation Act, 1974 are constitutionally valid. Consequently, we dismiss all the writ petitions, with no order as to costs. Consequently, connected W.P.M.Ps., are closed.

After pronouncement of the above Common Order, the learned counsel appearing for the petitioners prayed for reasonable time for payment of the difference amount. Accordingly, the petitioners are granted four months' time from to-day for payment of the difference of lifetime tax as per the amended provisions.

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Asst.Registrar

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Sub Asst.Registrar

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